

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by changing
5 Sections 19-105 and 19-111 as follows:

6 (220 ILCS 5/19-105)

7 Sec. 19-105. Definitions. For the purposes of this Article,
8 the following terms shall be defined as set forth in this
9 Section.

10 "Alternative gas supplier" means every person,
11 cooperative, corporation, municipal corporation, company,
12 association, joint stock company or association, firm,
13 partnership, individual, or other entity, their lessees,
14 trustees, or receivers appointed by any court whatsoever, that
15 offers gas for sale, lease, or in exchange for other value
16 received to one or more customers, or that engages in the
17 furnishing of gas to one or more customers, and shall include
18 affiliated interests of a gas utility, resellers, aggregators
19 and marketers, but shall not include (i) gas utilities (or any
20 agent of the gas utility to the extent the gas utility provides
21 tariffed services to customers through an agent); (ii) public
22 utilities that are owned and operated by any political
23 subdivision, public institution of higher education or

1 municipal corporation of this State, or public utilities that
2 are owned by a political subdivision, public institution of
3 higher education, or municipal corporation and operated by any
4 of its lessees or operating agents; (iii) natural gas
5 cooperatives that are not-for-profit corporations operated for
6 the purpose of administering, on a cooperative basis, the
7 furnishing of natural gas for the benefit of their members who
8 are consumers of natural gas; and (iv) the ownership or
9 operation of a facility that sells compressed natural gas at
10 retail to the public for use only as a motor vehicle fuel and
11 the selling of compressed natural gas at retail to the public
12 for use only as a motor vehicle fuel.

13 "Gas utility" means a public utility, as defined in Section
14 3-105 of this Act, that has a franchise, license, permit, or
15 right to furnish or sell gas or transportation services to
16 customers within a service area.

17 "Non-tariffed service" means any service provided by an
18 alternative gas supplier to a residential customer or a small
19 commercial customer.

20 "Residential customer" means a customer who receives gas
21 utility service for household purposes distributed to a
22 dwelling of 2 or fewer units which is billed under a
23 residential rate or gas utility service for household purposes
24 distributed to a dwelling unit or units which is billed under a
25 residential rate and is registered by a separate meter for each
26 dwelling unit.

1 "Sales agent" means any employee, agent, independent
2 contractor, consultant, or other person that is engaged by the
3 alternative gas supplier to solicit customers to purchase,
4 enroll in, or contract for alternative gas service on behalf of
5 an alternative gas supplier.

6 "Service area" means (i) the geographic area within which a
7 gas utility was lawfully entitled to provide gas to customers
8 as of the effective date of this amendatory Act of the 92nd
9 General Assembly and includes (ii) the location of any customer
10 to which the gas utility was lawfully providing gas utility
11 services on such effective date.

12 "Single billing" means the combined billing of the services
13 provided by both a natural gas utility and an alternative gas
14 supplier to any customer who has enrolled in a customer choice
15 program.

16 "Small commercial customer" means a nonresidential retail
17 customer of a natural gas utility who consumed 5,000 or fewer
18 therms of natural gas during the previous year; provided that
19 any alternative gas supplier may remove the customer from
20 designation as a "small commercial customer" if the customer
21 consumes more than 5,000 therms of natural gas in any calendar
22 year after becoming a customer of the alternative gas supplier.
23 In determining whether a customer has consumed 5,000 or fewer
24 therms of natural gas during the previous year, usage by the
25 same commercial customer shall be aggregated to include usage
26 at the same premises even if measured by more than one meter,

1 and to include usage at multiple premises. Nothing in this
2 Section creates an affirmative obligation on a gas utility to
3 monitor or inform customers or alternative gas suppliers as to
4 a customer's status as a small commercial customer as that term
5 is defined herein. Nothing in this Section relieves a gas
6 utility from any obligation to provide information upon request
7 to a customer, alternative gas supplier, the Commission, or
8 others necessary to determine whether a customer meets the
9 classification of small commercial customers as that term is
10 defined herein.

11 "Tariffed service" means a service provided to customers by
12 a gas utility as defined by its rates on file with the
13 Commission pursuant to the provisions of Article IX of this
14 Act.

15 "Transportation services" means those services provided by
16 the gas utility that are necessary in order for the storage,
17 transmission and distribution systems to function so that
18 customers located in the gas utility's service area can receive
19 gas from suppliers other than the gas utility and shall
20 include, without limitation, standard metering and billing
21 services.

22 (Source: P.A. 95-1051, eff. 4-10-09; 96-435, eff. 1-1-10;
23 96-1000, eff. 7-2-10.)

24 (220 ILCS 5/19-111)

25 Sec. 19-111. Material changes in business.

1 (a) The provisions of this Section shall apply only to
2 alternative gas suppliers serving or seeking to serve
3 residential or small commercial customers and only to the
4 extent such alternative gas suppliers provide services to
5 residential or small commercial customers.

6 (b) Alternative gas suppliers shall file with the
7 Commission a notification of any material change to the
8 information supplied in a certification application within 30
9 days of such material change.

10 (1) An alternative gas supplier shall file such notice
11 under the docket number assigned to the alternative gas
12 supplier's certification application, whichever is the
13 most recent. The supplier shall also serve such notice upon
14 the gas utility company serving customers in the service
15 area where the alternative gas supplier is certified to
16 provide service.

17 (2) After notice and an opportunity for a hearing, the
18 Commission may (i) suspend, rescind, or conditionally
19 rescind an alternative gas supplier's certificate if it
20 determines that the material change will adversely affect
21 the alternative gas supplier's fitness or ability to
22 provide the services for which it is certified or (ii)
23 require the alternative gas supplier to provide reasonable
24 financial assurances sufficient to protect their customers
25 and gas utilities from default.

26 (c) Material changes to the information contained in or

1 supplied with a certification application include, but are not
2 limited to, the following:

3 (1) Any significant change in ownership (an ownership
4 interest of 5% or more) of the applicant or alternative gas
5 supplier.

6 (2) An affiliation with any gas utility or change of an
7 affiliation with a gas utility in this State.

8 (3) Retirement or other long-term changes to the
9 operational status of supply resources relied upon by the
10 alternative gas supplier to provide alternative gas
11 service. Changes in the volume of supply from any given
12 supply resource replaced by a comparable supply resource do
13 not need to be reported.

14 (4) Revocation, restriction, or termination of any
15 interconnection or service agreement with a pipeline
16 company or natural gas company relied upon by an
17 alternative gas supplier to provide alternative retail
18 natural gas service, but only if such revocation,
19 restriction, or termination creates a situation in which
20 the alternative gas supplier does not meet the tariffed
21 capacity requirements of the relevant Illinois natural gas
22 utility or utilities.

23 (5) If the alternative gas supplier has a long-term
24 bond rating from Standard & Poor's or its successor, or
25 Fitch Ratings or its successor, or Moody's Investor Service
26 or its successor, and the alternative gas supplier's

1 long-term bond rating falls below BBB as reported by
2 Standard & Poor's or its successor or Fitch Ratings or its
3 successor or below Baa3 as reported by Moody's Investors
4 Service or its successor.

5 (6) The applicant or alternative gas supplier has or
6 intends to file for reorganization, protection from
7 creditors, or any other form of bankruptcy with any court.

8 (7) Any judgment, finding, or ruling by a court or
9 regulatory agency that could affect an alternative gas
10 supplier's fitness or ability to provide service in this
11 State.

12 (8) Any change in the alternative gas supplier's name
13 or logo, including without limitation any change in the
14 alternative gas supplier's legal name, fictitious names,
15 or assumed business names, except for logos and names the
16 alternative gas supplier provided as part of its original
17 certification process or that the alternative gas supplier
18 previously provided to the Commission under this Section.

19 (d) An alternative gas supplier shall provide annually to
20 the Commission a list of all non-tariffed services available to
21 customers in a service area for publication on the Commission's
22 website.

23 (Source: P.A. 95-1051, eff. 4-10-09.)